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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
DENNIS BALK,

Case No. 2:11-CV-00509  
(JFB) (AKT)

Plaintiff,

- against -

**STIPULATION AND ORDER**

NEW YORK INSTITUTE OF TECHNOLOGY and  
INFOTEC CORPORATION,

Defendants.  
-----X

It is hereby stipulated and agreed by the undersigned counsel, and ordered by the Court,  
as follows:

1. The clerk's entry of default against Infotec Corporation ("Infotec"), entered on June 20, 2011 (Docket No. 17), is hereby vacated and set aside.
2. The undersigned counsel for Infotec hereby accepts service of the First Amended Complaint, served on July 19, 2011, without prejudice to Infotec's defense based on lack of personal jurisdiction under Fed. R. Civ. P. 12(b)(2). Infotec expressly reserves all defenses, with the sole exception that Infotec waives any defenses based on insufficient process under Fed. R. Civ. P. 12(b)(4) and/or insufficient service of process under Fed. R. Civ. P. 12(b)(5).
3. Infotec has filed a motion to dismiss the First Amended Complaint as against Infotec for lack of personal jurisdiction. The parties are discussing the scope and timing of jurisdictional discovery, and following the completion of jurisdictional discovery, the Court will set a briefing schedule on the motion to dismiss the First Amended Complaint under Fed. R. Civ. P. 12(b)(2).
4. This stipulation may be signed in counterparts.

Dated: Uniondale, New York  
July \_\_, 2011

WESTERMAN BALL EDERER  
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By: \_\_\_\_\_  
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*Attorneys for Defendant Infotec Corp.*

Dated: New York, New York  
July \_\_, 2011

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Dated: New York, New York  
July 27, 2011

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Dated: New York, New York  
July \_\_, 2011

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*Co-Counsel for Plaintiff*

SO ORDERED:

\_\_\_\_\_  
Bianco, U.S.D.J.

Dated: Uniondale, New York  
July 28, 2011

**WESTERMAN BALL EDERER  
MILLER & SHARFSTEIN, LLP**

By: *Jeffrey A. Miller*  
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Dated: New York, New York  
July 27, 2011

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Dated: New York, New York  
July \_\_\_\_, 2011

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Dated: New York, New York  
July 27, 2011

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SO ORDERED:

**Bianco, U.S.D.J.**